

MEMO:

Date: 3/03/09
To: Chris Scott, County Planning Department
From: R. Dale Beland AIA, AICP
Re: Draft Amendments to Subdivision Regulations re Transportation

As promised, I submit the following comments concerning the proposed amendments. These reflect my review of the staff draft, discussions with the Planning Board Subcommittee, meetings with other professionals and my experience as a former Gallatin County Planning Director.

My comments also relate to the significant challenges the county faces as it continues work on the Growth Policy Implementation Program amidst the most serious economic decline in decades. I believe that changes in local subdivision review should support the goal of encouraging “smart growth” while avoiding unnecessary or unclear regulation.

1. Delegation of Authority: Predictability of the process should be a focus of these changes. Accordingly, I support the Subcommittee Report’s concern regarding delegation of authority to staff.

The proposed draft amendments (Section 9.G) give planning/ road department staff broad discretion (and responsibility) in determination of Traffic Impact Study (TIS) requirements. The scope and content of a TIS can become major, costly factors in a subdivision application. Therefore, it is important that the applicant receive a clear definition of such a requirement early in the process.

As a former planning staff member, I understand that staff discretion can be a two-edged sword. It permits some flexibility in the process that can be useful. However, it can also place responsibility for major decisions on non- elected individuals, which is inappropriate.

I suggest that the proposed amendments to Section 9.G be replaced by amendments to Section 5.D (Pre-Application Plan Submittal Requirements) as necessary to include an applicant's proposed TIS study area, scope and contents. This would allow staff to consider the adequacy of the proposed TIS (based on consultant peer review?). Concurrent amendment of Section 3.C, (Pre-Application Review), could include a review letter by staff confirming the proposed TIS format.

This approach would allow both applicant and staff to constructively explore the need for a TIS prior to submittal of the full Preliminary Plat Application. The applicant would be able to assess the viability of the proposed subdivision project at an early stage and avoid an expensive and potentially wasteful application effort.

It would not affect the requirement for sufficiency review of the Preliminary Plat Application by staff.

2. Statutory Mandate for Mitigation: A controlling threshold for all proposed amendments is the current statute defining mitigation of development impacts. As noted by the Subcommittee, the county "...may require the subdivider...to reasonably mitigate potentially significant adverse impacts..." [MCA 76-3-608 (4)].

Several of the proposed amendments could require mitigation measures that may exceed this threshold. The draft of Section 7.F through 7.I includes such changes. Comments prepared by interested engineers and surveyors will probably describe these issues in more detail, but I have not seen their latest work. I look forward to an opportunity for future comment.

3. County Subdivisions within "Planning Boundaries of Municipalities": The draft amendments include several varied references to this jurisdictional overlap. I suggest that this situation be clarified by adding an appropriate definition to Section 1 (Definitions).

A related concern is the proposed requirement (Section 7.M) that such subdivisions must make street improvements consistent with municipal standards. This raises the policy question of whether we want all new county development adjacent to municipal boundaries to conform exactly to municipal standards.

Do we want Bozeman densities of six units/acre or greater? Why can't we have county standards that accommodate lesser densities that incorporate infrastructure which may be different, but compatible with adjacent Bozeman facilities where this makes sense?

For example, we should allow trails in lieu of sidewalks adjacent to major parks and open space.

My schedule does not allow me to include more detailed comments or suggestions at this time. However, given the lack of subdivision applications requiring timely action by the County Commission, perhaps the Planning Board would extend their hearing to allow more input. If so, I am willing to participate as a member of the public.

The Planning Board and staff deserve appreciation for their extensive outreach program and work to upgrade our current regulations in a constructive manner. I hope my suggestions will aid this effort.

Subdivision regulation transportation amendments 30309.doc